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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,914	03/03/2004	Lee-Yin Chee	PJW190	3848
Paul J. Winters 307 Cypress Point Drive Mountain View, CA 94043				
			EXAMINER CEHC, KENAN	
			ART UNIT 2416	PAPER NUMBER
			MAIL DATE 04/22/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/791,914

**Applicant(s)**

CHEE ET AL.

**Examiner**

KENAN CEHIC

**Art Unit**

2416

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 29 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Kwang B. Yao/  
Supervisory Patent Examiner, Art Unit 2416

/Kenan Cehic/  
Examiner, Art Unit 2416

Continuation of 11, does NOT place the application in condition for allowance because: For claim 2, the applicant maintains that it would have not been obvious do use a flag in the teachings of Freeman and further that there is not underlying rational for such a combination / modification. The applicant continues to argue that the inclusion / modification of using a Boolean flag in the teachings of Freeman, would not result in less memory and resource utilization. Specifically, the applicant argues that since the patterns / test are discarded substituting this principal with a Boolean flag would result in more memory and resource utilization and further would "change the principle of operation". As clearly and specifically discussed (Office action dated 01/23/2009), in the response Examiner never alleged that the principle of discarding of patterns / test should be substituted with retaining a flag. As explained in the last office action, Freeman retains keeps track of which patterns / test are useful as shown in Figures 2 (List of Tests at Block-Level already found", "Retain Chip-Level Test and UPDATE LIST...."), Figure 4 ("ALREADY DETECTED, DETECTED INCLUSIVE", "THIS PATTERN", and checkmarks associated with patterns) and col 10 lines 1 -10. Freeman clearly states in col 10 lines 1-10 "A pattern is noted.....those patterns that may be useful.....are kept....." and that each pattern / test is kept track of as shown in figures 2 and 4. The applicant appears to ignore the above evidence in Freeman and the thorough explanation (page 14 line 21 through page 15) of how a flag would be used in Freeman. Freeman keeps track ("noted" and the checkmarks) of the test / pattern if it is useful / new and if another test / pattern that produces the same result (ie a pattern / test is noted), this test is not useful / discarded and the device is not tested for that pattern / test. Therefore, as explained extensively in the previous office action, it would have been obvious to a person of ordinary skill to use the well known Boolean flag to keep track of such test / patterns. Applicant argument that "does not in any way suggest the use of flags so as to meet the limitations of claim 2" are not found persuasive because of the above reasoning. Further, a suggestions for the combination / use in one of the references is not a requirement for a 35 U.S.C 103 rejection. Lastly, the examiner fails to see how the use of a flag for the above purpose would "change the principle of operation". The applicant needs to provide evidence / reasoning how using a flag for the above purpose, would "change the principle of operation" of Freeman. .